

S.A No.1236/2022

ORDER

23rd May. 2024

23
2

1. Learned counsel for the appellant and Mr. Umair Azam, Additional Advocate General for the respondents present.

2. Vide our detailed judgment of today placed on file, the appeal is dismissed being barred by time. Costs shall follow the event. Consign.

3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 23rd day of May, 2024.*



(Muhammad Akbar Khan)
Member (E)



(Kalim Arshad Khan)
Chairman

23/5/24

order was passed on 22.04.2022 while the appellant filed this appeal on 22.08.2022. The appellant he was supposed to file appeal within 30 days of final order whether original or appellate as required by the Section-4 Khyber Pakhtunkhwa Service Tribunal Act, 1974, but he has filed appeal before this Tribunal on 112th day of passage of the appellate order, therefore, this appeal is barred by time.


6. The appellant has annexed with the appeal an application for condonation of delay on the grounds that he was mentally shocked and was seriously ill; that he was not supplied copies of orders. None of the grounds is convincing or worth consideration nor is there any proof of ailment of the appellant annexed with the appeal, therefore, the application for condonation of delay does not merit acceptance.

7. This being so, the appeal is dismissed being barred by time. Costs shall follow the event. Consign.

8. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 23rd day of May, 2024.*



KALIM ARSHAD KHAN
Chairman



MUHAMMAD AKBAR KHAN
Member (Executive)

Judge, Peshawar, inquiry was conducted and resultantly, vide impugned order dated 02.03.2022, he was compulsorily retired from service. Feeling aggrieved, he filed departmental appeal 24.03.2022, which was rejected vide order dated 22.04.2022, hence, the instant service appeal.

2. Feeling aggrieved, he filed departmental appeal but the same was not responded, hence, the instant service appeal.

3. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant and learned Additional Advocate General for respondents.

4. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Additional Advocate General, controverted the same by supporting the impugned order(s).

5. The appellant is aggrieved of the order dated 02.03.2022 passed by the learned Senior Civil Judge (Admin), Peshawar (respondent No.3) whereby, the appellant was awarded major penalty of compulsory retirement from service. It is also against the order dated 22.04.2022 passed by the District & Sessions Judge, Peshawar, whereby, the departmental appeal filed by the appellant against the order dated 02.03.2022 was dismissed. The appellate

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

BEFORE: **KALIM ARSHAD KHAN** ... CHAIRMAN
MUHAMMAD AKBAR KHAN ... MEMBER (Executive)

Service Appeal No.1236/2022

Date of presentation of Appeal.....22.08.2022
Date of Hearing.....23.05.2024
Date of Decision.....23.05.2024

Shakeel Ahmad Kundi, Ex-Balif District Courts Peshawar
.....(*Appellant*)

Versus

1. **Registrar**, Peshawar High Court, Peshawar.
2. **District Judge**, Peshawar.
3. **Senior Civil Judge (Admin)**, Peshawar.....(*Respondents*)

Present:

Mr. Sagheer Iqbal Gulbela, AdvocateFor the appellant
Mr. Umair Azam, Additional Advocate General.....For respondents

.....

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER NO.5 DATED 22.04.2022, OF THE LEARNED DISTRICT AND SESSIONS JUDGE, PESHAWAR, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN DISMISSED, AGAINST THE IMPUGNED OFFICE ORDER NO.4 DATED 02.03.2022 OF THE LEARNED SENIOR CIVIL JUDGE (ADMIN), PESHAWAR, WHEREIN THE APPELLANT HAS BEEN COMPULSORY RETIRED FROM SERVICE IN A CLASSICAL, CURSORY AND WHIMSICAL MANNER. HENCE THE INSTANT SERVICE APPEAL

JUDGMENT

MUHAMMAD AKBAR KHAN, MEMBER (E): Brief facts of the case, as enumerated in the memo and grounds of appeal are that appellant was serving as Balif in the District Judiciary Peshawar. That upon a complaint addressed to the learned District & Sessions